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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,507	05/10/2001	Richard E. Weller	E-1507 CON	7165
32215	7590	03/29/2004	EXAMINER	
KLARQUIST SPARKMAN, LLP 121 SW SALMON STREET, SUITE 1600 ONE WORLD TRADE CENTER PORTLAND, OR 97204			JONES, DAMERON LEVEST	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,507

Applicant(s)

WELLER ET AL.

Examiner

D. L. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 5-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2, and 5-29 (all in part) is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

ACKNOWLEDGMENTS

1. The Examiner acknowledges receipt of the response filed 1/12/04 wherein Applicant acknowledged the allowable subject matter and requested that the notice of allowance be mailed.

Note: Claims 1, 2, and 5-29 are pending.

RESPONSE TO APPLICANT'S REQU

2. In response to Applicant's request that the notice of allowance be mailed, the Applicant is once again respectfully requested to limit the invention to what the scope of the invention searched. Below is a summary of the actions mailed in this application.

Date (2/14/02): A restriction requirement was made in the case.

Date (8/8/02): The Examiner acknowledged Applicant's election of Group VIII. Group VIII is directed to a radioisotope carrier comprising a gelling copolymer comprising methacrylamide. It is noted in the office action that while Applicant's election was made with traverse, since reasons why the restriction was improper were not set forth, the restriction was deemed proper and was therefore made final.

Date (1/29/03): (See pages 2-3, paragraph 5 of the office action) It is stated in the office action that the claims are allowable over the prior art of record for reasons of record in the office action mailed 8/8/02. In additions, it is respectfully requested that Applicant cancel ALL non-elected subject matter. Furthermore, it is stated that the search has not been expanded beyond elected Group VIII.

Date (6/10/03): In the advisory action mailed 6/10/03, it is stated that Applicant has amended the claims such that additional searching and consideration is necessary

to determine patentability. Applicant was respectfully requested to review the office action mailed 1/29/03 which indicates that the search was not extended beyond the elected invention.

Date (10/8/03): In the office action mailed 10/8/03, it was stated that claims 1, 2, and 5-29 are allowable over the prior art of record for Group VIII only. In addition, it is stated that the search was not extended beyond a radioisotope carrier comprising a gelling copolymer comprising methacrylamide. Furthermore, it is stated that while Applicant asserted that the claims were amended to encompass only Group VIII subject matter, the independent claims encompass more than the elected invention.

Currently, the Examiner is once again respectfully requesting that all non-elected subject matter be removed from the claims. The search of the claims has not been extended beyond Applicant's elected invention, Group VIII. Thus, Applicant is requested to limit the claims to a radioisotope carrier comprising a gelling copolymer comprising methacrylamide. For example, independent claim 1, read on a radioisotope carrier wherein the stimulus-sensitive gelling polymer is unlimited. Hence, the claim encompasses gelling copolymers of biodegradable polymers, cellulose derivatives, agar, gelatin, chitosin, alginate gel, and so forth.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


D. L. Jones
Primary Examiner
Art Unit 1616

March 25, 2004